

Notice of Allowability	Application No.	Applicant(s)	
	09/762,837	BIRKHOLZER ET AL.	
	Examiner	Art Unit	
	Cameron Saadat	3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 10/6/2005.
2. ☒ The allowed claim(s) is/are 13-15, 17, 19-27 and 29-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

It is noted by the examiner that claims 24-27 have been inadvertently omitted in applicant's most recent response filed 10/6/2005. However, applicant did not intend to cancel these claims, which were previously presented in applicant's response filed 2/20/2004. Accordingly, claims 24-27 hold the status of (previously presented) and are incorporated herein as they appeared in applicant's amendment filed 2/20/2004.

Authorization for this examiner's amendment was given in a telephone interview with Jacob Eisenberg on December 5, 2005. The application has been amended as follows:

In the Specification:

delete pages 12-14

In the Claims:

claim 13, line 10, replace "a predetermined" with --an ideal--

line 26 (last line): replace "displayed area of the moving person." with -- displayed area of the moving person; wherein the movement and position of the moving marker is specified by a trainer, and wherein one or more moving markers are assignable to one or more of the various body extremities.--

claim 18 (Cancelled)

claim 19, line 1: replace "A system as claimed in claim 18" with --A system as claimed in claim 13--

Art Unit: 3715

claims 24-27 (Previously Presented)

claim 28 (Cancelled)

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: Patentability is seen in, although not limited to independent claim 13, the combination of elements specifically claimed including the feature of providing a trainer to specify the movement and position of the moving marker, wherein one or more moving markers are assignable to one or more of the various body extremities. This feature is supported in applicant's specification on *page 4, lines 17-28; page 9, lines 19-26*. The closest prior art of record, Burns (USPN 5,904,484), discloses a system wherein a motion template is overlaid on a person's captured image. The motion template 10 comprises an animation outline 12 showing a desired movement, wherein portions of the animation outline are highlighted (Col. 5, lines 45-50) and wherein a student steps into the animation outline 12 (See Fig. 2a-b; Col. 6, lines 20-25). In contrast, applicant's system assigns one or more moving markers directly onto one or more of the various body extremities of a person without requiring an animation outline of an entire body.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is (571) 272-4443. The examiner can normally be reached on M-F 8:00 - 5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3715

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cameron Saadat
December 5, 2005




MONICA S. CARTER
PRIMARY EXAMINER
SPE, AU
3715